(34)

A.F.R.

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. No. 170/2006

Single Bench: Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Appellant/ Defendant No. 1	The Oriental Insurance Company Ltd., Ambikapur, Surguja, through, Divisional Manager, Divisional Office, Bilaspur (CG)
	Versus
Respondent/ Claimant No.1	1. Shri Shyamlal Kanwar, 32 years, S/o Shri Devarsai, Caste-Kanwar, Occupation-Agriculture.
Respondent Claimant No.2	2. Smt. Anita, 30 years, W/o Shri Shyamlal Kanwar, Caste-kanwar, occupation-Housewife. Both R/o Village-Sarbhoka, P.S. Patna, Tahsil-Baikunthpur, District-Koria (CG)
Respondents Defendants No. 2 to 7	3. Shri Ghoorsai, 40 years, S/o Shri Mevalal, Caste-Ghasia, Occupation-Tractor Driver.
	4. Shri Ghoorsai Painkra, 38 years, S/o Shri Ramsai Painkra, Occupation-Tractor Owner. Respondents No. 3 & 4 are R/o Village-Kasra, P.S. Patna, Tahsil-Baikunthpur, District-Koria (CG)
	5. Shri Rambhajan, 6 years, S/o Jagmohan, Occupation-Agriculture.
	6. Shri Lagansai, 55 years, S/o Shri Pawansai, Occupation- Agriculture.
	7. Shri Jagsai, 36 years, S/o Shri Sajjan Sai, Occupation-Agriculture.

Present: Shri Sankalp Jayasawal, learned counsel for the appellant/Insurance Company.

ORAL ORDER

(Passed on 20th March, 2007)

The following oral order was passed by Dilip Raosaheb Deshmukh, J.

1. In claim case No. 26/2003, the Additional Motor Accidents Claims Tribunal, Baikunthpur, Distt. Korea has vide award dated 30.11.2004

awarded a meagre compensation of Rs. 1,08,000/- for the death of Jitendra, the son of the applicants who was a student of class-X. The appeal was filed after 120 days after the date of award. This appeal is barred by limitation.

2. Heard on M.C.P. No. 211/2006 for condonation of delay of 30 days in filing this appeal.

3. This appeal was preferred by the Oriental Insurance Company Ltd., against the award dated 30.11.2004. Copy of the impugned award was applied for on 22.12.2004 and was received on 29.12.2004. Neither in the application under Section 5 of the Limitation Act nor in the affidavit filed by the Divisional Manager of the appellant/Insurance Company, has it been shown as to how the files moved in the Oriental Insurance Company and when the proposal was sent and when the sanction was obtained for filing the appeal.

4. It is not the law that in every case where there is delay in filing of appeal by the Insurance Company, it should be condoned automatically without considering whether there is sufficient cause for the delay. The Insurance Company like any other litigant is under an obligation to show sufficient cause for the delay. The appellant/Insurance Company is equipped with a legal Department. It was for the appellant to show why there was delay in applying for the copy of the award, when did the Company send a proposal for obtaining official sanction, when it was received and when the appeal was filed. To reiterate the mere fact that the appellant is the Insurance Company and procedural delay is the rule in such Companies, would not by itself constitute a sufficient cause for condonation of delay in every case. Since no material is placed on record to show why the delay occurred in filing this appeal, I am not inclined to condone the delay in filing this appeal. It is only when the appellant/Insurance Company puts forth the details of the movements of the files that certain amount of latitude could be granted in favour of the Insurance Company. It is also pertinent to note that the affidavit of the concerned Divisional Manager is wholly silent on this point. Even the application for condonation of delay does not mention the actual delay that has occurred and a blank space has been left.

5. In this view of the matter, the application under Section 5 of the Limitation Act for condonation of delay is dismissed.

6. Consequently, the miscellaneous appeal is also dismissed as barred by Limitation. In view of the above, M.C.P. No. 210/2006 for grant of stay also stands disposed of.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Priya